

Subparts I-L [Reserved]

Subpart M—E-Z Trial

SOURCE: 60 FR 41809, Aug. 14, 1995, unless otherwise noted.

§ 2200.200 Purpose.

(a) The purpose of the E-Z Trial subpart is to provide simplified procedures for resolving contests under the Occupational Safety and Health Act of 1970, so that parties before the Commission may reduce the time and expense of litigation while being assured due process and a hearing that meets the requirements of the Administrative Procedure Act, 5 U.S.C. 554. These procedural rules will be applied to accomplish this purpose.

(b) Procedures under this subpart are simplified in a number of ways. The major differences between these procedures and those provided in subparts A through G of the Commission's rules of procedure are as follows.

- (1) Complaints and answers are not required.
- (2) Pleadings generally are not required. Early discussions among the parties and the Administrative Law Judge are required to narrow and define the disputes between the parties.
- (3) The Secretary is required to provide the employer with certain informational documents early in the proceeding.
- (4) Discovery is not permitted except as ordered by the Administrative Law Judge.
- (5) Interlocutory appeals are not permitted.
- (6) Hearings are less formal. The Federal Rules of Evidence do not apply. Instead of briefs, the parties will argue their case orally before the Judge at the conclusion of the hearing. In many instances, the Judge will render his or her decision from the bench.

§ 2200.201 Application.

The rules in this subpart will govern proceedings before a Judge in a case chosen for E-Z Trial under § 2200.203.

[60 FR 41809, Aug. 14, 1995, as amended at 62 FR 14822, Mar. 28, 1997; 62 FR 40934, July 31, 1997]

§ 2200.202 Eligibility for E-Z Trial.

(a) Those cases selected for E-Z Trial will be those that do not involve complex issues of law or fact. Cases appropriate for E-Z Trial would generally include those with one or more of the following characteristics:

- (1) Relatively few citation items,
 - (2) An aggregate proposed penalty of not more than \$10,000,
 - (3) No allegation of willfulness or a repeat violation,
 - (4) Not involving a fatality,
 - (5) A hearing that is expected to take less than two days, or
 - (6) A small employer whether appearing pro se or represented by counsel.
- (b) Those cases with an aggregate proposed penalty of more than \$10,000, but not more than \$20,000, if otherwise appropriate, may be selected for E-Z Trial at the discretion of the Chief Administrative Law Judge.

[62 FR 40934, July 31, 1997]

§ 2200.203 Commencing E-Z Trial.

(a) *Selection.* Upon receipt of a Notice of Contest, the Chief Administrative Law Judge may, at his or her discretion, assign an appropriate case for E-Z Trial.

(b) *Party request.* Within twenty days of the notice of docketing, any party may request that the case be assigned for E-Z Trial. The request must be in writing. For example, "I request an E-Z Trial" will suffice. The request must be sent to the Executive Secretary. Copies must be sent to each of the other parties.

(c) *Judge's ruling on request.* The Chief Judge or the Judge assigned to the case may grant a party's request and assign a case for E-Z Trial at his or her discretion. Such request shall be acted upon within fifteen days of its receipt by the Judge.

(d) *Time for filing complaint or answer under § 2200.34.* If a party has requested E-Z Trial or the Judge has assigned the case for E-Z Trial, the times for filing a complaint or answer will not run. If a request for E-Z Trial is denied, the period for filing a complaint or answer will begin to run upon issuance of the notice denying E-Z Trial.

[60 FR 41809, Aug. 14, 1995, as amended at 62 FR 61012, Nov. 14, 1997]